

FISCAL NOTE

SB 2549 - HB 2631

March 5, 2008

SUMMARY OF BILL: Broadens the Class E felony offense of unlawful possession of a handgun to include a person who at the time of the offense was on bail, pretrial or judicial diversion, probation, parole, community correction, work release, educational release, restitution release, medical furlough or on escape status after having been charged with or convicted of a dangerous felony. Violation is punishable by a mandatory minimum two-year sentence, less sentence credits earned, to be served consecutively to the underlying dangerous felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$11,359,800/Incarceration*

Assumptions:

- Under current law, it is a Class E felony if a person possesses a handgun and has a prior conviction of a felony drug offense or a felony involving the use or attempted use of force, violence or a deadly weapon.
- According to the Administrative Office of the Courts, there has been an average of 358 convictions per year for the past five years for unlawful possession of a handgun. According to the Department of Correction (DOC), there has been an average of 79 admissions per year for the past five years for unlawful possession of a handgun as a primary offense. DOC estimates the difference between convictions and admissions (279) are offenders currently serving a sentence concurrent to another sentence or offenders who received probation. DOC estimates 50 percent of the convictions (139) involved a prior felony drug conviction and 50 percent (140) involved a prior felony with the use or attempted use of force, violence or a deadly weapon. Estimate assumes two-thirds of the 139 prior drug convictions (93) are not serving a consecutive sentence and would have been on probation or parole and would serve 1.7 years (mandatory minimum two-year sentence at 85 percent) in the first year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6 percent over the next 10 years. Population growth will result in 11 additional offenders in the

tenth year. According to DOC, average operating cost per inmate per day for calendar year 2008 is \$62.78. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 104 offenders serving 1.7 years (620.93 days). The cost per inmate at 1.7 years is \$38,981.99 (\$62.78 x 620.93 days). The total additional cost for 104 offenders in the tenth year is \$4,054,126.96 (\$38,981.99 x 104).

- DOC estimates 50 percent (39) of the 79 admissions involved a prior felony drug conviction and two-thirds of those (26) would have been on probation or parole and would serve additional time on their sentences as a result of this bill. Population growth will result in three additional offenders in the tenth year. The maximum cost in the tenth year is based on 29 offenders serving an additional 1.4 (an increase from 0.3 years to 1.7 years) in the first year. The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The cost per inmate at 1.7 years is \$38,981.99 (\$62.78 x 620.93 days). The additional cost from increasing the average sentence length from 0.3 years to 1.7 years is \$32,102.56 (\$38,981.99 - \$6,879.43). The total additional operating cost for 29 offenders is \$930,974.24 (\$32,102.56 x 29).
- DOC estimates 50 percent of 140 (70) convictions involved a prior felony with the use or attempted use of force, violence or a deadly weapon and two-thirds of those (47) of those would have been on probation or parole and would serve 1.7 years in the first year. Population growth will result in five additional offenders in the tenth year. The maximum cost in the tenth year is based on 52 offenders. The cost per inmate at 1.7 years is \$38,981.99 (\$62.78 x 620.93 days). The total additional operating cost for 52 offenders is \$2,027,063.48 (\$38,981.99 x 52).
- DOC estimates 50 percent (20) of the remaining 40 admissions involved a prior felony with the use or attempted use of force, violence or a deadly weapon. Two-thirds of those (13) would have been on probation or parole and would serve additional time on their sentences as a result of this bill. Population growth would result in one additional offender in the tenth year. The maximum cost in the tenth year is based on 14 offenders serving an additional 1.4 years (an increase from 0.3 years to 1.7 years). The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The cost per inmate at 1.7 years is \$38,981.99 (\$62.78 x 620.93 days). The additional cost from increasing the average sentence length from 0.3 years to 1.7 years is \$32,102.56 (\$38,981.99 - \$6,879.43). The total additional operating cost for 14 offenders is \$449,435.84 (\$32,102.56 x 14).
- DOC estimates a 25 percent increase (90) in the number of convictions for the persons who are on bail, pretrial diversion, judicial diversion, work release, community correction, or other relevant forms of supervised or unsupervised release into the community or on escape status and would be convicted of unlawful possession of a handgun. Ninety offenders in the first year would serve 1.7 years. Population

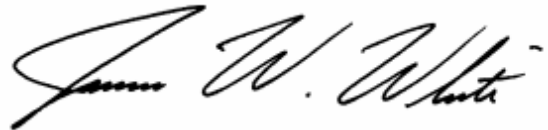
growth will result in 10 additional offenders in the tenth year. The maximum cost in the tenth year is based on 100 offenders. The cost per inmate at 1.7 years is \$38,981.99 (\$62.78 x 620.93 days). The total additional operating cost for 100 offenders is \$3,898,199 (\$38,981.99 x 100).

- Any impact this bill would have on caseloads for the state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc